

UNITED STATES DISTRICT COURT

for the

IN RE: DMCA SECTION 512(h) SUBPOENA TO
META PLATFORMS, INC.

Civil Action No.

24 mc 19

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Meta Platforms, Inc., 1 Meta Way, Menlo Park, CA 94025

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: **SEE ATTACHMENT A.**

Place: Michael T. Voorhees
6320 Camino Alto RD NW
Albuquerque, NM 87120

Date and Time: April 30, 2024 at 10:00 a.m.

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 4/16/2024

CLERK OF COURT



OR

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Michael T. Voorhees, who issues or requests this subpoena, are:

Michael T. Voorhees (pro se), 6320 Camino Alto RD NW, Albuquerque, NM 87120, mike@cyonic.com, (505) 453-3573

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DOCUMENTS TO BE PRODUCED UNDER SUBPOENA

1. All identifying information for the creator, user, and/or account holder of the Facebook account associated with the following account information:

<https://www.facebook.com/profile.php?id=100095100767297&mibextid=kFxxJD>

including but not limited to any information provided prior to and/or during the process of creating, and any subsequent updating or modification thereof, of the above identified “cloned” Facebook profile named “Mike T. Voorhees” which establish the name(s), address(es), telephone number(s), email address(es), IP address(es) used by such creator, user, and/or account holder, any MAC address(es) for devices used during the creation, modification, or posting to such account, any recorded geographic or geolocation data with related date and time information corresponding to the creation, modification, or posting to such account, and the method used to access the account, including whether via browser or app and any identifying information as to the specific type, brand, and model of computing device (i.e. laptop, tablet, smart phone, etc...) and whether biometric means were used during the process of logging onto such website or app.

2. All identifying information previously or subsequently known to create any additional profiles or an associated “main profile” with the same user(s) of the profile associated with the following account information:

<https://www.facebook.com/profile.php?id=100095100767297&mibextid=kFxxJD>

3. Any other identifying information known by Meta Platforms, Inc, or its affiliates, contractors, or partners, including “cookies” or other stored data, or other uniquely identifying account number(s) that could aid in establishing the identity of the alleged infringer or infringers pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512(h).

EXHIBIT A

COPY OF SUBSECTION (c)(3)(A) NOTIFICATION OF CLAIMED INFRINGEMENT

The below text is from the email thread whereby Meta acknowledged receipt of Notice via their Copyright Report Form

From: Facebook case++aazq23znpjghzw@support.facebook.com
Subject: Copyright Report Form

Date: March 11, 2024 at 12:50 PM To: mike@cyonic.com

Hi,

Thanks for contacting us. It appears that the reported content has already been removed from Facebook, which we understand to resolve this report.

If you'd like to report something else, please fill out this form: <https://www.facebook.com/help/contact/634636770043106?ref=cr>

If you have any additional questions, please visit the Intellectual Property section of the Help Center: https://www.facebook.com/help/intellectual_property?ref=cr

Thanks, Facebook

On Mon Mar 11, 2024 11:26:21, Mike T. Voorhees wrote:
Please find attached the annotated screen shots from the Fake Facebook profile page, showing the unauthorized use of my actual prior profile photo (circled and annotated in red) as well as the image of a post entitled housing backward (also circled in red) that had been created by me and posted to my real Facebook page. Not shown is the cover photo used by the Fake Facebook profile page (which was taken down before I was able to take a screen shot), which is the ballooning photo I took from my hot air balloon and which I use as the cover photo for my actual current Facebook profile page. All three of the of

the copyrighted images, in addition to being used without my permission, were used in furtherance of multiple crimes, including identity theft, defamation, wire fraud, and potentially deprivation of rights under color of law, depending upon who was involved in the creation of this Fake Facebook account. I once again assert that the content of the fake posts is horrendous hate speech which I condemn in the most strenuous terms.

To understand the extent of actual harm caused by this Facebook account, it will be necessary to see a list of each account that was served this data, when it occurred, and what was viewed.

The cooperation by Meta in gathering and releasing all such information and assisting in the ascertaining of who was involved in creating and maintaining this fake account in furtherance of the above crimes is expected.

Sincerely,
Michael T. Voorhees

On Mar 8, 2024, at 4:07 PM, Facebook <case+
+aazq23znpjghzw@support.facebook.com> wrote: Hi,

Thanks for contacting us. It looks like you provided a link to an entire Page, group or profile. We've reviewed your report, and it's not clear that the entire Page, group or profile infringes your copyright.

So that we can better understand your report, please provide the following:

- An example of your copyrighted work, such as a link (URL) to a publicly available version of your copyrighted work. If you cannot provide an example of your copyrighted work, please provide us with a description of your copyrighted work. Attaching an example of your work may also be helpful.
- A link(s) (URL) leading directly to the specific photo,

video, or other content you're reporting on the platform. If a link isn't available, please provide a detailed description of where it appears on Facebook, including the name of the person who posted it and the time they posted it. Attaching a screenshot may also be helpful. To learn how to get a URL to a photo or video on Facebook, please visit the Help Center:

<https://www.facebook.com/help/2053403608222571?ref=CR>

- An explanation of how you believe the reported content is infringing your copyright(s). Once we've received this additional information, we'll continue to look into your report. Thanks,
Facebook

On Fri Mar 8, 2024 11:41:42, original message wrote:

The Facebook Team received a report from you. For reference, your complaint number is 354858037539651.

As a reminder, if your submission contains a report of alleged infringement/violation of your legal rights, no further action is necessary. We will look into your matter shortly.

Thanks for contacting Facebook,
The Facebook Team

Describe your relationship to the rights owner. : I am the rights owner.

Your full name : Mike T. Voorhees

Mailing address : 6320 Camino Alto NW
Albuquerque, NM 87120

Email address : mike@cyonic.com

Confirm your email address : mike@cyonic.com

Where are you asserting rights? : United States

Which of these best describes the copyrighted

work? : Photo

Name of the rights owner : Michael Todd Voorhees

What type of content are you reporting? : Photo, video or post

Please provide links (URLs) to the copyrighted work or describe it in the box below. : <https://www.facebook.com/photo/?fbid=10219961953065442&set=a.1357734389675>

<https://www.facebook.com/photo/?fbid=10205227347789519&set=a.2503786400259>

<https://www.facebook.com/photo/?fbid=10205227347789519&set=a.2503786400259>

<https://www.facebook.com/photo/?fbid=10205227347789519&set=a.2503786400259>

<https://www.facebook.com/photo/?fbid=10205227347789519&set=a.2503786400259>

Please provide links (URLs) leading directly to the specific content you are reporting. : <https://www.facebook.com/profile.php?id=100095100767297&mibextid=kFxxJD>

<https://www.facebook.com/profile.php?id=100095100767297&mibextid=kFxxJD>

<https://www.facebook.com/profile.php?id=100095100767297&mibextid=kFxxJD>

Describe why you are reporting this content. : This content copies my work

Please provide any additional information that can help us understand your report. : This profile not only violated my copyrights, it was a fraudulent and defamatory account attempting to impersonate me as part of a scheme committing wire fraud and civil rights crimes. The creator(s) of the profile and its posts violated Facebook terms of service and enjoys no privacy protection. I am requesting all related information on this account, including names, urls, and any identifying information on the creation and posting to this account. I am also requesting Facebook to provide information as to how many other accounts (and which account specifically and on what dates and times) were either served information suggesting the fake account as a possible friend or acquaintance, or served posts as part of searches that may have included hashtags from the posts in the fake account, over the entire 8 months that such content was online. I am requesting that Facebook preserve all data associated with the account for possible legal proceedings and criminal investigations.

Merely taking down this post does not close this matter. Participation in concealing the identity of individuals involved in this unlawful account may incur criminal and civil culpability.

Electronic signature : Michael Todd Voorhees

Exhibit B

PROPOSED DMCA SUBPOENA

**REQUEST TO CLERK OF US DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
FOR SUBPOENA UNDER 17 U.S.C. § 512(h)(1)**

1 Petitioner Michael T. Voorhees (pro se) hereby requests that the
2 Clerk of this Court issue a subpoena on Meta Platforms, Inc. (“Meta”) to
3 identify an alleged infringer or infringers, pursuant to the Digital
4 Millennium Copyright Act (“DMCA”), 17 U.S.C. § 512(h) (the “DMCA
5 Subpoena”).

6 The DMCA Subpoena is directed to Meta, the service provider of a
7 “cloned” Facebook account and profile, created and maintained by the
8 infringing party or parties, as part of a scheme to impersonate the
9 Petitioner, unlawfully using this Petitioner’s name and photographic
10 likeness without authorization, and to post infringing content and other
11 information over the Facebook social media service. The employment of
12 a false identity is prima facie evidence that the infringer or infringers are
13 attempting to conceal their real identity or identities. This necessitates
14 providing a high level of detailed information sufficient to identify the
15 alleged infringer(s) of the copyrighted material that is described in the
16 notification to the service provider to the extent such information is
17 available to the service provider, as required under 17 U.S.C. § 512(h).

1 The types of such information that may assist in any necessary computer
2 forensic analysis to identify alleged infringer(s) are listed in the proposed
3 DMCA Subpoena.

4 Petitioner has satisfied the requirements for issuance of a subpoena
5 pursuant to 17 U.S.C. § 512(h), namely:

6 (1) Petitioner has submitted concurrently herewith a copy of the
7 notification required by 17 U.S.C. § 512(c)(3)(A) as Exhibit A;

8 (2) Petitioner has submitted concurrently herewith the proposed
9 DMCA Subpoena as Exhibit B; and

10 (3) Petitioner has submitted concurrently herewith a sworn
11 declaration confirming that the purpose for which the subpoena
12 is sought is to obtain the identity of an alleged infringer and
13 that such information will only be used for the purpose of
14 protecting Petitioner's rights under Title 17 U.S.C. § 512(h) as
15 Exhibit C.

16 Accordingly, I ask that the Clerk pursuant to 17 U.S.C. § 512(h)(4) to
17 expeditiously issue and sign the proposed subpoena.

18 Sincerely,

19 

20 Michael T. Voorhees

EXHIBIT C
SWORN DECLARATION OF MICHAEL T. VOORHEES
UNDER TITLE 17 U.S.C. § 512(h)(2)(C)

I, Michael T. Voorhees, declare and testify as follows:

(1) I am seeking a subpoena under Title 17 U.S.C. § 512(h) to identify the person or persons who infringed copyrighted material via a Facebook account and profile associated with the following account information:

[https:// www.facebook.com/profile.php? id=100095100767297&mibextid=kFxxJD](https://www.facebook.com/profile.php?id=100095100767297&mibextid=kFxxJD)

(2) I swear that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting my rights under Title 17 U.S.C. § 512(h).

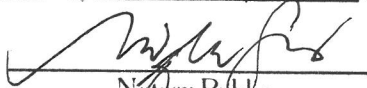
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 15, 2024.


Michael T. Voorhees

State of New Mexico

County of Bernalillo

Subscribed and sworn (or affirmed) before me on this 15th day
of April, 2024 by Michael T. Voorhees



Notary Public

(seal)

My commission expires: 10/05/2027



STATE OF NEW MEXICO
NOTARY PUBLIC
Miquela Sanchez
Commission No. 1095923
Expires: October 05, 2027